

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRENT KELLY,

Plaintiff,

vs.

Case No. 19-

AGC FLAT GLASS NORTH AMERICA, INC.
SHORT-TERM DISABILITY PLAN and/or
THE LINCOLN NATIONAL LIFE
INSURANCE COMPANY,

Defendants.

GREG LIEPSHUTZ (P37573)
Attorney for Plaintiff
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PLAINTIFF'S COMPLAINT

NOW COMES Plaintiff, TRENT KELLY, by and through his attorneys, GREG M. LIEPSHUTZ and LEVINE BENJAMIN, P.C., and for his Complaint against Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, states as follows:

1. At all times, relevant hereto, Plaintiff, TRENT KELLY, is a resident of the City of Attica, County of Lapeer and State of Michigan.
2. At all times, relevant hereto, Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN

NATIONAL LIFE INSURANCE COMPANY, is a foreign insurance corporation in good standing and continuously conducting business throughout the State of Michigan.

3. At all times, relevant hereto, Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, was compensated for and provided Short-Term Disability coverage pursuant to the terms of a group employee benefits plan provided for the benefit of Plaintiff, TRENT KELLY, and other employees, by their employer.

4. The Short-Term Disability insurance policy issued by Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, is a group employee benefit plan covered by and within the meaning of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 et seq.

5. The terms of said Plan obligated Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, to provide Plaintiff, TRENT KELLY, with Short-Term Disability Benefits, in the event that Plaintiff was rendered unable to work due to injury, disease or other medical condition.

6. That Plaintiff, TRENT KELLY, suffers from chronic neck and back pain. As a result, Plaintiff's conditions have made it impossible for him to work.

7. Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, has wrongfully denied Plaintiff disability benefits.

8. Defendant's denial of benefits was arbitrary and capricious and was contrary to medical and other evidence that overwhelmingly supports Plaintiff's claim of total and permanent disability. Defendant's termination of Plaintiff's benefits therefore amounts to a breach of the contract for insurance.

9. Plaintiff, TRENT KELLY, has exhausted all appeals and/or reconsideration processes provided by Defendants; nevertheless, Defendants refuses to resume payment of benefits rightfully due and owing to Plaintiff.

10. Plaintiff, TRENT KELLY, is a person empowered to bring a civil action under 29 U.S.C. § 1132(a)(1)(B) to force the Defendants to comply with the Act and resume payment of Short-Term Disability benefits to Plaintiff.

11. 29 U.S.C. § 1132(a)(1)(B) reads as follows:

(a) Persons Empowered to Bring a Civil Action
A civil action may be brought –
(1) by a participant or beneficiary –

(B) to recover benefits due to him under the terms of the plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan[.]

12. As a result of Defendant's wrongful termination of disability benefits, Plaintiff, TRENT KELLY, has sustained the following damages, including, but not limited to:

(a) Loss of past, present and future income in the form of wage loss compensation benefits;

WHEREFORE, Plaintiff, TRENT KELLY, prays for Judgment in his favor and against the Defendants, AGC FLAT GLASS NORTH AMERICA, INC. SHORT-TERM DISABILITY PLAN and/or THE LINCOLN NATIONAL LIFE INSURANCE

COMPANY, in whatever amount he is found to be entitled, in addition to costs, interest and attorney fees.

Respectfully submitted,

LEVINE BENJAMIN, P.C.

/s/ GREG M. LIEPSHUTZ (P37573)

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Dated: October 21, 2019